

Exhibit 31

1
IN THE UNITED STATES DISTRICT COURT
2
FOR THE DISTRICT OF HAWAII
3

4 WAYNE BERRY,)
5 Plaintiff,) CIVIL NO. 01-00446SPK-LEK
6 vs.)
7 FLEMING COMPANIES, INC.,)
8 aka FLEMING FOODS, INC.,)
9 aka FLEMING, DOE)
10 INDIVIDUALS 1-50 and)
DOE PARTNERSHIPS,)
CORPORATIONS and OTHER)
ENTITIES 1-20,)
11 Defendants.)
12)
13

14 TRANSCRIPT OF PROCEEDINGS
15
16 The above-entitled matter came on for Jury
17 Trial commencing at 9:05 a.m. on Tuesday, February 25,
18 2003, Honolulu, Hawaii.
19
20 BEFORE: HONORABLE SAMUEL P. KING
21 United States District Judge
22 District of Hawaii
23
24 REPORTED BY: LISA J. GROULX, COURT REPORTER
25 Notary Public, State of Hawaii

LISA GROULX & ASSOCIATES
(808) 225-5701

1 I N D E X
2
34 PLAINTIFF'S WITNESSES:

PAGES

5 ROGER WALL

6 Direct examination by Mr. Hogan

4

7 Cross-examination by Mr. Smith

13

8 WAYNE BERRY

9 Direct exam (resumed) by Mr. Hogan

15

10 EXHIBITS:

MARKED

RECEIVED

11 Plaintiff's Exhibit 83	28
12 Plaintiff's Exhibit 85	34
13 Plaintiff's Exhibit 86	37
14 Plaintiff's Exhibit 87	39
15 Plaintiff's Exhibit 90 - 96	67
16 Plaintiff's Exhibit 58	81
17 Plaintiff's Exhibit 47	87
18 Plaintiff's Exhibit 59	96
19 Plaintiff's Exhibit 60	115
20 Plaintiff's Exhibit 61	126
21 Plaintiff's Exhibit 62	132
22 Plaintiff's Exhibit 52	134
23 Plaintiff's Exhibit 16	140
24 Defendant's Exhibit 280	129

1 Q. And did you ever have any indication that Mr.
2 Borja did not understand that?

3 A. No. Never.

4 Q. Now do you recall Mr. Borja actually reading
5 this letter?

6 A. Yes. I hand carried this into his office,
7 put it in front of him and watched him read it.

8 Q. Now at the time that this shut down was
9 happening; was it your understanding, based on your
10 knowledge of API's records, that Mr. Borja was in fact
11 indebted to Fleming?

12 A. Yes. He had signed a personal guaranty to
13 Fleming.

14 Q. And based on that personal guaranty and what
15 you understood that Fleming was claiming at the time,
16 do you have any understanding of how much it was
17 claimed that Mr. Borja owed?

18 A. About 1.2 or 1.5 million dollars.

19 Q. And is it your understanding that it wasn't
20 just Mr. Borja that owed that money?

21 A. Mr. Borja and his wife Heidi had both signed
22 that personal guaranty.

23 Q. Now at that time, sir, in September 1999, did
24 you owe any money personally to Fleming?

25 A. No.

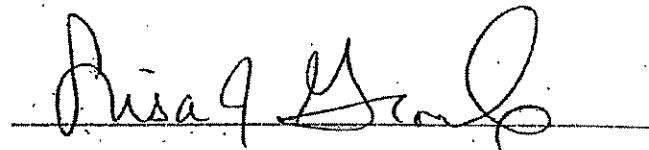
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1 CERTIFICATE

2 STATE OF HAWAII)
3 COUNTY OF HONOLULU) SS.

4
5 I, Lisa J. Groulx, Court Reporter, District
6 of Hawaii, Honolulu, Hawaii, and Notary Public, State
7 of Hawaii, do hereby certify that the foregoing is a
8 true and correct transcript of the proceedings in this
9 Jury Trial, WAYNE BERRY vs. FLEMING COMPANIES, INC.,
10 ET AL., at Honolulu, Hawaii, taken on Tuesday,
11 February 25, 2003, before the Honorable SAMUEL P.
12 KING, United States District Judge.

13
14
15 February 25, 2003



16 LISA J. GROULX, COURT REPORTER

17 Notary Public - State of Hawaii

18 My Commission Expires on: 5/15/06